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8. **BEFORE THE**  
9. **BOARD OF REGISTERED NURSING**  
10. **DEPARTMENT OF CONSUMER AFFAIRS**  
11. **STATE OF CALIFORNIA**

12. In the Matter of the Accusation Against:

Case No.

2011-265

13. **ANNETTE P. FORGIONE-MARTIN**  
14. **P.O. Box 901**  
**Benicia, CA 94510**  
15. **Registered Nurse License No. 462797**

ACCUSATION

Respondent.

16.   
17. Complainant alleges:

18. PARTIES

19. 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20. official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21. of Consumer Affairs.

22. 2. On or about March 31, 1992, the Board of Registered Nursing issued Registered  
23. Nurse License Number RN 462797 to Annette P. Forgione-Martin ("Respondent"). The  
24. Registered Nurse License was in full force and effect at all times relevant to the charges brought  
25. herein and will expire on November 30, 2011, unless renewed.

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1 situation which the nurse knew, or should have known, could have jeopardized the client's health  
2 or life."

3 8. California Code of Regulations, title 16, section 1443, states:

4 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
5 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
6 exercised by a competent registered nurse as described in Section 1443.5."

7 9. Section 2762 of the Code states:

8 "In addition to other acts constituting unprofessional conduct within the meaning of this  
9 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
10 chapter to do any of the following:

11 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
12 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
13 administer to another, any controlled substance as defined in Division 10 (commencing with  
14 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
15 defined in Section 4022.

16 "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
17 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
18 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
19 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
20 ability to conduct with safety to the public the practice authorized by his or her license.

21 ...  
22 10. Code section 4060 states, in pertinent part:

23 No person shall possess any controlled substance, except that furnished to a person  
24 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
25 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order  
26 issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner  
27 pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a  
28 naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either  
subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph  
(5) of, subdivision (a) of Section 4052 ...

11. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a -----," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

#### COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### MEDICATIONS

13. Morphine Sulfate is a Schedule II controlled substance as defined by Health and Safety Code section 11055(b)(1)(u) and a dangerous drug within the meaning of Code section 4022. It is an opioid analgesic prescribed for relief of moderate to severe pain.

14. Demerol is a Schedule II controlled substance as defined by Health and Safety Code section 11055(c)(17) and a dangerous drug within the meaning of Code section 4022. It is an opioid analgesic prescribed for relief of moderate to severe pain.

15. Versed is a Schedule IV controlled substance as defined by Health and Safety Code section 11057(d)(21) and a dangerous drug within the meaning of Code section 4022. It is prescribed for pre-operative sedation/amnesia or for induction prior to administration of general anesthesia.

16. Phenergan is a dangerous drug within the meaning of Code section 4022. It is prescribed for allergic type symptoms, sedation pre-operatively and for the treatment of nausea and vomiting.

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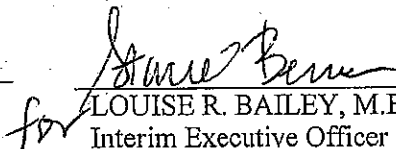


PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 462797, issued to Annette P. Forgione-Martin.
2. Ordering Annette P. Forgione-Martin to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3.
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/28/10

*for*   
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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